

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

MIALLAND

Atty. Ref.: 622-91; Confirmation No. 5633

Appl. No. 10/563,912

TC/A.U. 1617

Filed: May 16, 2006

Examiner: Kim, J.M.

For: PHARMACEUTICAL COMPOSITIONS COMPRISING ASCORBIC ACID FOR THE  
TREATMENT OF FUNGAL SUPERINFECTIONS AND FUNGAL RECURRENCES

\* \* \* \* \*

June 12, 2009

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE**

In response to the Official Action mailed May 12, 2009, Applicant hereby elects the species A), namely the standard treatment of bacterial infection which precedes the administration of the ascorbic acid. Claims 18-23 and 28-33 read on the elected invention.

For purposes of clarity, claims 24-27 define the kinds of vaginal fungal infections that can be treated or prevented by administration of ascorbic acid. They do not define one of the standard treatments which precedes the ascorbic acid administration. Attention in this regard is directed to the paragraph near the bottom of page 6 of the present application.

A common theme which applies to the present invention is that when a standard treatment against bacterial, fungal or protozoarian infection is made, later fungal infections can arise. This is because the previous therapy can create conditions which are favorable for growth of certain germs that were not able to grow prior to the previous therapy (typically, the standard treatment) due to competition for nutriment within the vagina (primarily glycogen and vaginal sugars).

Vaginal fungal infections frequently arise as a result of previous antibiotic and/or antiprotozoarian therapies changing the vaginal flora, and killing the bacteria. The absence of bacteria (both pathogen or normal saprophyte bacteria e.g. lactobacillus) creates a favorable environment for fungal growth due the germination of spores which are ubiquitous. It is known that fungi cannot grow where bacteria exist unless the fungi themselves produce some antibiotic substances (thus, penicillin and all the major antibiotics have been discovered by study of mold growth in dirty environments).

In the case of fungal infections subsequent to antifungal therapies, the vaginal fungal infections often are the result of growth of resistant strains selected by the previous therapy. The ascorbic acid creates an unfavorable environment to the germination of fungal spores after effecting a standard treatment against bacterial, fungal or protozoarian infections.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. **14-1140**

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Further action is awaited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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